IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

WEDNESDAY, THE 20TH JUNE 2007 / 30TH JYAISHTA 1929

ST.Rev..No. 174 of 2007

TA.244/2004 of S.T.A.TRIBUNAL,ADDL.BENCH,KOZHIKODE

REVISION PETITIONER/APPELLANT ASSESSEE

M/S.BOMBAY STEELS, COURT ROAD,CALICUT.

BY ADV. SRI.DR.K.B.MOHAMMEDKUTTY (SR)
SRI.K.M.FIROZ

RESPONDENT: RESPONDENT REVENUE

THE STATE OF KERALA, REP.BY THE
SECRETARY TO GOVERNMENT,
TAXES DEPARTMENT,SECRETARIAT,
THIRUVANANTHAPURAM.

BY SPECIAL GOVERNMENT PLEADER FOR TAXES
SRI.V.V.ASHOKAN

THIS SALES TAX REVISION HAVING COME UP FOR ADMISSION ON 20/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

H.L.DATTU, C.J. & K.T.SANKARAN,J.

S.T.REV. NO. 174 OF 2007

Dated this the 20th June, 2007

O R D E R

H.L.DATTU, C.J.

The assessee being aggrieved by the orders passed by the Kerala Sales Tax Appellate Tribunal, Kozhikode in T.A.No.244 of 2004 dated 12.10.2006, for the assessment year 1999-2000, is before us in this revision petition.

2. The assessee has raised the following question of law for our consideration and decision. It is as under:

> "i) Whether on the facts and in the circumstances of the case and in view of the detailed description (Iron and Steel) contained in item 2 (ii) of the Second Schedule to the Kerala General Sales Tax Act, is not the decision that steel spring would not come within that Entry is illegal and without examining the real nature of the goods and the object of the legislative Entry?"

3. The Tribunal while allowing the appeal filed by the State, has merely relied upon the observations made by this Court in the case of **State of Kerala** v. **Deccan Industries** (2006 (2) KLT 125). In the said decision, the Court has observed as under:

> "Entries 99 and 68 give emphasise to the words

> "steel articles" which were not mentioned in the first or second schedule whereas several other items are included in entries 2(ii)(d) and 2(ii)(f) such as steel bars, sheets, hoops, strips and skelp but "steel spring" is omitted in those entries. The items specified in 2(ii) and 2(ii)(f) in the second Schedule are specific and "steel spring" the manufacturing process of which we have already mentioned earlier, is not included in the above entries. Entry 99/68 of first schedule specifically deals with steel articles not mentioned elsewhere. Since steel spring is not mentioned elsewhere it would fall under entry 99/68 of the first schedule to the Kerala General Sales Tax Act."

4. In our opinion, in view of the law declared by the Division Bench of this Court which is also binding on us, the question of law raised by the assessee requires to be answered in negative and in favour of the Revenue.

Ordered accordingly.

(H.L.DATTU)
Chief Justice

(K.T.SANKARAN)
Judge

ahz/